

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of CA on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 09-01635 SBA	DATE FILED 04/14/2009	U.S. DISTRICT COURT Northern District of CA
PLAINTIFF ESCO CORP		DEFENDANT BERKELEY FORGE
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,171,771		***SEE COMPLAINT***
2 7,174,661		
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5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Jessie Mosley	DATE April 16, 2009
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

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FILED  
2009 APR 14 P 3:51  
RICHARD W. VIERKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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E-filing

19 Attorneys for Plaintiff  
20 ESCO Corp.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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21 ESCO CORP., an Oregon corporation  
22 Plaintiff,  
23  
24 v.  
25  
26 BERKELEY FORGE & TOOL, INC.,  
27 a California Corporation,  
28 Defendant.

CV Case No. 09

1635

COMPLAINT FOR PATENT  
INFRINGEMENT

DEMAND FOR JURY TRIAL

SBA

FILED  
FAX



1 assigned to ESCO the entire right, title, and interest to the '771 patent, including all rights to  
2 recover for all infringements thereof. A copy of the '771 patent is attached as Exhibit A.

3 8. Berkeley Forge has infringed the '771 patent by making, using, offering to sell,  
4 selling, and/or importing products that are covered by one or more claims of the '771 patent,  
5 including, but not limited to, releasable coupling assemblies, at least some of which were sold  
6 under the "Unicorn Locking System" name.

7 9. ESCO has been damaged by Berkeley Forge's infringement.

8 10. Furthermore, Berkeley Forge's acts of infringement have been without express or  
9 implied license by ESCO, are in violation of ESCO's rights, and may continue unless enjoined  
10 by this Court.

11 11. Berkeley Forge has continued its infringement in willful disregard of the '771  
12 patent and the rights created thereunder.

13 12. This is an exceptional case because of Berkeley Forge's willful infringement.

14 13. ESCO has been and will continue to be irreparably harmed by Berkeley Forge's  
15 infringement of the '771 patent.

16 **COUNT II - INFRINGEMENT OF U.S. PATENT NO. 7,174,661**

17 14. On February 13, 2007, the United States Patent and Trademark Office duly and  
18 legally issued U.S. Patent No. 7,174,661 ("the '661 patent") to inventor Terry L. Briscoe, who  
19 assigned to ESCO the entire right, title, and interest to the '661 patent, including all rights to  
20 recover for all infringements thereof. A copy of the '661 patent is attached as Exhibit B.

21 15. Berkeley Forge has been infringing and continues to infringe the '661 patent by  
22 making, using, offering to sell, selling, and/or importing products that are covered by one or  
23 more claims of the '661 patent, including, but not limited to, releasable coupling assemblies, at  
24 least some of which were sold under the "Unicorn Locking System" name.

25 16. ESCO has been damaged by Berkeley Forge's infringement.

26 17. Furthermore, Berkeley Forge's acts of infringement have been without express or  
27 implied license by ESCO, are in violation of ESCO's rights, and will continue unless enjoined by  
28 this Court.

1 18. The '661 patent is currently under reexamination in the United States Patent and  
2 Trademark Office. ESCO believes that a certificate confirming the claims will be issued in the  
3 reexamination proceeding.

4 19. Berkeley Forge has continued its infringement in willful disregard of the '661  
5 patent and the rights created thereunder.

6 20. This is an exceptional case because of Berkeley Forge's willful infringement.

7 21. ESCO has been and will continue to be irreparably harmed by Berkeley Forge's  
8 infringement of the '661 patent.

9 **RELIEF SOUGHT**

10 **WHEREFORE**, ESCO prays:

11 A. For an injunction against further infringement of the '771 and '661 patents by  
12 Berkeley Forge, its officers, agents, servants, employees, attorneys, and all those persons in  
13 active concert or participation with it or controlled by it;

14 B. For damages to compensate ESCO for the infringement of the '771 and '661  
15 patents, together with prejudgment and postjudgment interest;

16 C. For an assessment of costs against Berkeley Forge;

17 D. For treble damages pursuant to 35 U.S.C. § 284 because Berkeley Forge's  
18 infringement has been willful;

19 E. For judgment that this is an exceptional case under 35 U.S.C. § 285, and that  
20 Berkeley Forge shall pay to ESCO all its attorneys' fees; and

21 F. For all such other and further relief as this Court deems just and proper.

22 Respectfully submitted,

23 Dated: April 14, 2009

By: 

24 Robert H. Scribner  
25 KIMBLE, MACMICHAEL & UPTON

26 Charles W. Shifley  
27 BANNER & WITCOFF, LTD.

28 **Attorneys for Plaintiff**  
ESCO, Corp.

1 **DEMAND FOR JURY TRIAL**

2 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, ESCO hereby demands a  
3 trial by jury on all issues so triable.

4 Respectfully submitted,

5  
6 Dated: April 14, 2009

By:   
Robert H. Scribner  
KIMBLE, MACMICHAEL & UPTON

8 Charles W. Shifley  
9 Justin Busch  
10 BANNER & WITCOFF, LTD.

11 **Attorneys for Plaintiff**  
12 **ESCO, Corp.**  
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Respectfully submitted,

By:                       
Robert H. Scribner  
KIMBLE, MACMICHAEL & UPTON

**Attorneys for Plaintiff**  
ESCO, Corp.